



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3053

Introduced 2/5/2020, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

40 ILCS 5/17-105.1	
40 ILCS 5/17-106	from Ch. 108 1/2, par. 17-106
40 ILCS 5/17-132	from Ch. 108 1/2, par. 17-132
40 ILCS 5/17-134.2 new	
30 ILCS 805/8.44 new	

Amends the Chicago Teacher Article of the Illinois Pension Code. Adds to the definition of "employer" a contract school operating pursuant to an agreement with the Chicago Board of Education. Adds to the definition of "teacher" the educational staff employed by a contract school operating pursuant to an agreement with the Chicago Board of Education in a position requiring certification or licensure (excluding all managerial, supervisory, and confidential employees) and are required to or elect to participate. Provides that any educational staff of a contract school operating pursuant to an agreement with the Chicago Board of Education who is employed in a position requiring certification or licensure on or after the effective date of the amendatory Act (excluding all managerial, supervisory, and confidential employees) shall participate as a member, unless the person began employment with the contract school before the effective date of the amendatory Act. Authorizes educational staff who began employment with the contract school before the effective date of the amendatory Act to irrevocably elect to participate as a member for service accrued after the effective date of the election. Makes conforming and other changes. Effective July 1, 2021.

LRB101 18926 RPS 68385 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing
5 Sections 17-105.1, 17-106, and 17-132 and by adding Section
6 17-134.2 as follows:

7 (40 ILCS 5/17-105.1)

8 Sec. 17-105.1. Employer. "Employer": The Board of
9 Education, ~~and~~ a charter school as defined under the provisions
10 of Section 27A-5 of the School Code, and a contract school
11 operating pursuant to an agreement with the Board of Education.

12 (Source: P.A. 90-566, eff. 1-2-98.)

13 (40 ILCS 5/17-106) (from Ch. 108 1/2, par. 17-106)

14 Sec. 17-106. Contributor, member or teacher.
15 "Contributor", "member" or "teacher": All members of the
16 teaching force of the city, including principals, assistant
17 principals, the general superintendent of schools, deputy
18 superintendents of schools, associate superintendents of
19 schools, assistant and district superintendents of schools,
20 members of the Board of Examiners, all other persons whose
21 employment requires a teaching certificate issued under the
22 laws governing the certification of teachers, any educational

1 staff employed in a contract school operating pursuant to an
2 agreement with the Board of Education who is employed in a
3 position requiring certification or licensure under the School
4 Code (excluding all managerial, supervisory, and confidential
5 employees) and is required to or elects to participate pursuant
6 to Section 17-134.2, any educational, administrative,
7 professional, or other staff employed in a charter school
8 operating in compliance with the Charter Schools Law who is
9 certified under the law governing the certification of
10 teachers, and employees of the Board, but excluding persons
11 contributing concurrently to any other public employee pension
12 system in Illinois for the same employment or receiving
13 retirement pensions under another Article of this Code for that
14 same employment, persons employed on an hourly basis (provided
15 that an Employer may not reclassify a non-hourly employee as an
16 hourly employee for the purpose of evading or avoiding its
17 obligations under this Article), and persons receiving
18 pensions from the Fund who are employed temporarily by an
19 Employer and not on an annual basis.

20 All teachers or staff regardless of their position shall
21 presumptively be participants in the Fund, unless the Employer
22 establishes to the satisfaction of the Board that an individual
23 certified teacher or staff member is not working as a teacher
24 or administrator directly or indirectly with the Charter
25 School. Any certified teacher or staff employed by a corporate
26 or non-profit entity engaged in the administration of a charter

1 school shall presumptively be a participant in the Fund, unless
2 the organization establishes to the satisfaction of the Board
3 that an individual certified teacher or staff member is not
4 working as a teacher or administrator directly or indirectly
5 with the Charter School.

6 In the case of a person who has been making contributions
7 and otherwise participating in this Fund prior to the effective
8 date of this amendatory Act of the 91st General Assembly, and
9 whose right to participate in the Fund is established or
10 confirmed by this amendatory Act, such prior participation in
11 the Fund, including all contributions previously made and
12 service credits previously earned by the person, are hereby
13 validated.

14 The changes made to this Section and Section 17-149 by this
15 amendatory Act of the 92nd General Assembly apply without
16 regard to whether the person was in service on or after the
17 effective date of this amendatory Act, notwithstanding
18 Sections 1-103.1 and 17-157.

19 (Source: P.A. 98-427, eff. 8-16-13.)

20 (40 ILCS 5/17-132) (from Ch. 108 1/2, par. 17-132)

21 Sec. 17-132. Payments and certification of salary
22 deductions.

23 (a) An Employer shall cause the Fund to receive all
24 members' payroll records and pension contributions within 30
25 calendar days after each predesignated payday. For purposes of

1 this Section, the predesignated payday shall be determined in
2 accordance with each Employer's payroll schedule for
3 contributions to the Fund.

4 (b) An Employer that fails to timely certify and submit
5 payroll records to the Fund is subject to a statutory penalty
6 in the amount of \$100 per day for each day that a required
7 certification and submission is late.

8 Amounts not received by the 30th calendar day after the
9 predesignated payday shall be deemed delinquent and subject to
10 a penalty consisting of interest, which shall accrue on a
11 monthly basis at the Fund's then effective actuarial rate of
12 return, and liquidated damages in the amount of \$100 per day,
13 not to exceed 20% of the principal contributions due, which
14 shall be mandatory except for good cause shown and in the
15 discretion of the Board.

16 An Employer in possession of member contributions deducted
17 from payroll checks is holding Fund assets, and thus becomes a
18 fiduciary over those assets.

19 (c) The payroll records shall report (1) all pensionable
20 salary earned in that pay period, exclusive of salaries for
21 overtime, extracurricular activities, or any employment on an
22 optional basis, such as in summer school; (2) adjustments to
23 pensionable salary, exclusive of salaries for overtime,
24 extracurricular activities, or any employment on an optional
25 basis, such as in summer school, made in a pay period for any
26 prior pay periods; (3) pension contributions attributable to

1 pensionable salary earned in the reported pay period or the
2 adjusted pay period as required by subsection (b) of Section
3 17-131; and (4) any salary paid by an Employer if that salary
4 is compensation for validated service and is exclusive of
5 salary for overtime, extracurricular activities, or any
6 employment on an optional basis, such as in summer school.
7 Payroll records required by item (4) of this paragraph shall
8 identify the number of days of service rendered by the member
9 and whether each day of service represents a partial or whole
10 day of service.

11 (d) The appropriate officers of the Employer shall certify
12 and submit the payroll records no later than 30 calendar days
13 after each predesignated payday. The certification shall
14 constitute a confirmation of the accuracy of such deductions
15 according to the provisions of this Article.

16 Each Charter School and contract school shall designate an
17 administrator as a "Pension Officer". The Pension Officer shall
18 be responsible for certifying all payroll information,
19 including contributions due and certified sick days payable
20 pursuant to Section 17-134, and assuring resolution of reported
21 payroll and contribution deficiencies.

22 (e) The Board has the authority to conduct payroll audits
23 of a charter school or contract school to determine the
24 existence of any delinquencies in contributions to the Fund,
25 and such charter school or contract school shall be required to
26 provide such books and records and contribution information as

1 the Board or its authorized representative may require. The
2 Board is also authorized to collect delinquent contributions
3 from charter schools and contract schools and develop
4 procedures for the collection of such delinquencies.
5 Collection procedures may include legal proceedings in the
6 courts of the State of Illinois. Expenses, including reasonable
7 attorneys' fees, incurred in the collection of delinquent
8 contributions may be assessed by the Board against the charter
9 school or contract school.

10 (Source: P.A. 101-261, eff. 8-9-19.)

11 (40 ILCS 5/17-134.2 new)

12 Sec. 17-134.2. Employee of a contract school. Any
13 educational staff of a contract school operating pursuant to an
14 agreement with the Board of Education who is employed in a
15 position requiring certification or licensure under the School
16 Code on or after the effective date of this amendatory Act of
17 the 101st General Assembly (excluding all managerial,
18 supervisory, and confidential employees) shall participate as
19 a member, unless the person began employment with the contract
20 school before the effective date of this amendatory Act of the
21 101st General Assembly.

22 Any educational staff employed in a contract school
23 operating pursuant to an agreement with the Board of Education
24 who began employment in a position requiring certification or
25 licensure under the School Code before the effective date of

1 this amendatory Act of the 101st General Assembly (excluding
2 all managerial, supervisory, and confidential employees) may
3 irrevocably elect, in a manner prescribed by the Board, to
4 participate as a member for service accrued after the effective
5 date of the election with the contract school or with another
6 contract school. In no event shall a person accrue service for
7 employment with a contract school that occurred before the
8 effective date of the election to participate as a member.

9 Section 90. The State Mandates Act is amended by adding
10 Section 8.44 as follows:

11 (30 ILCS 805/8.44 new)

12 Sec. 8.44. Exempt mandate. Notwithstanding Sections 6 and 8
13 of this Act, no reimbursement by the State is required for the
14 implementation of any mandate created by this amendatory Act of
15 the 101st General Assembly.

16 Section 99. Effective date. This Act takes effect July 1,
17 2021.